IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 19455 of 2001

Between:

P.Somanadham s/o Ramalaxmaiah,aged 60 years, E.31507,Depot Clerk (Rtd), APSRTC, Hayathanagar Depot, Ranga Reddy District.

..... PETITIONER

AND

1.The Management of APSRTC, rep., by Vice Chairman and Managing

Director, APSRTC, Musheerabad, Hyderabad.

2.The Depot Manager, APSRTC, Mehdipatnam Depot, Hyderabad.

3.The Depot Maqnager, APSRTC,Hayathnagar Depot, Ranga Reddy

District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus by directing the respondents to pay the balance gratuity amount of Rs.72,095/- treating the period from 16-12-1967 to 5-10-1985 as on duty as per the award of the Labour Court in I.D.No.38 of 1981 on the file of the Additional Industrial Tribunal cum Additional Labour Court, Hyderabad and also direct the respondents to pay the terminal benefit of encashment for the period from 27-12-1973 to 6-10-1985.

Counsel for the Petitioner:MR.P.RAGHAVENDRA REDDY

Counsel for the Respondent Nos.1 to 3: Mr. VTM Prasad,Standing Counsel for APSRTC.

The Court made the following :

ORDER:

The petitioner seeks a writ of Mandamus directing the respondents to pay the balance gratuity amount of Rs.72,095/- treating the period from 16-12-1967 to 5-10-1985 as 'on duty', as per the award in I.D No.38 of 1981 on the file of Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad and also directing the respondents to pay the terminal benefits for the period from 27-12-1973 to 06-10-1985.

The petitioner raised Industrial Dispute No.38 of 1981, aggrieved by the action of the 2nd respondent in terminating him from services. The Labour Court, Hyderabad, by an Award dated 15-10-1984, set aside the order of the 2nd respondent and directed the respondent-Corporation to reinstate the petitioner into service with continuity of service and with all attendant benefits. It is also held that the petitioner is entitled to his full back wages. It is stated that for the said period, during which he was out of service, the gratuity amount was not calculated and the terminal benefits till the date of reinstatement was also not calculated.

The learned counsel for the respondents submits that the contentions raised in this writ petition are squarely covered by a Judgment of this Court in W.P No.17438 of 2001 and the same was confirmed by a Division Bench of this Court in W.A.No.1125 of 2002 dated 22-08-2003.

I have perused the Judgment of this Court in W.PNo.17438 of 2001, wherein this Court directed the respondents to treat the removal period of the petitioner therein as qualified service for the purpose of payment of Gratuity and also Earned Leave, calculate the amount payable to the petitioner and release the same within a period of three months from the date of receipt of a copy of the order.

Following the said Judgment, the writ petition is allowed, directing the respondent-Corporation to treat the removal period of the petitioner as qualified service for the purpose of payment of Gratuity and Earned Leave and calculate the amount payable to the petitioner and release the same within a period of three months from the date of receipt of a copy of this order.

Accordingly this writ petition is allowed. No order as to costs.

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V.ESWARAIAH

10-11-2004

Note:

Issue CC by

One week.

(B/o)

rkk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday the tenth day of November Two thousand and four.

To

1.The Vice Chairman and Managing Director,

APSRTC, Musheerabad, Hyderabad.

2.The Depot Manager, APSRTC, Mehdipatnam Depot, Hyderabad.

3.The Depot Maqnager, APSRTC,Hayathnagar Depot, Ranga Reddy

District.

4. Two CD copies.